

**REMARKS**

In accordance with the foregoing, the specification has been amended to make corrections to an inadvertently mis-numbered reference numeral, claims 1, 4, 5, 10, 11, 14, 15 and 23 have been amended, and claims 2, 3, 6-9, 13 and 16-22 have been canceled without prejudice or disclaimer of the subject matter contained therein. No new matter has been added. New claims 25-30 have been added. Claims 1, 4, 5, 10-12, 14, 15, and 23-30 are pending and under consideration.

**I. Rejections Under 35 USC § 102**

Claims 1 and 16 stand rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,749,900 to Schroepfel et al. ("Schroepfel"). Applicants assert that the claims of the present invention are patentably distinguishable from Schroepfel and the rejection is respectfully traversed.

While Schroepfel teaches computing a variation in the ventricular rate for a predetermined length of time or epoch and comparing the variation to stored variation values occurring during a previous cardiac event, Schroepfel does not teach determining a variation associated with a determined rate zone, and varying a count in response to the determined rate zone and the variation, as set forth in claim 1 of the present invention. Therefore, claim 1 is patentably distinguishable from Schroepfel. Accordingly, withdrawal of the rejection is respectfully submitted.

**II. Rejections Under 35 USC § 103**

The claims of the present invention stand variously rejected Claims under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 5,259,621 to Bardy et al. in view of various further prior art documents. The Examiner's rejections are respectfully traversed.

None of the referenced prior art documents, alone or in combination, teach or suggest determining a variation associated with a determined rate zone

and varying a count in response to the determined rate zone and the variation, as set forth in claims 1, 11 and 23 of the present invention. Therefore, claim 1 and claims 4, 5 and 10 dependent thereon, independent claim 11 and claims 12, 14 and 15 dependent thereon, and independent claim 23 and claim 24 dependent thereon are patentably distinguishable from the referenced prior art documents. Accordingly, withdrawal of the rejections is respectfully requested.

### III. New Claims Added

New claims 25-30 have been added. Support for the new claims may be found, for example, at page 18, line 14 to page 21, line 3, in reference to FIG. 7 of the present application. No new matter has been added. Entry and consideration of the new claims is respectfully requested.

### IV. Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this Amendment, the Examiner is requested to telephone the undersigned attorney to attend to those matters.

Respectfully submitted,

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Date

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